

# **EXHIBIT QQ**

**In the Matter Of:**

*LYNNE FREEMAN vs*

*TRACY DEEBS-ELKENANEY*

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*LYNNE FREEMAN*

*March 24, 2023*

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1                   UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF NEW YORK  
2                   Civil Action No. 1:22-cv-02435-LLS-SN

3

4       LYNNE FREEMAN, an individual,

5                   Plaintiff,

6                   -vs-

7       TRACY DEEBS-ELKENANEY P/K/A  
8       TRACY WOLFF, an individual,  
9       EMILY SYLVAN KIM, an  
10      individual, PROSPECT AGENCY,  
11      LLC, a New Jersey limited  
12      liability company, ENTANGLED  
13      PUBLISHING, LLC, a Delaware  
14      limited liability company,  
15      HOLTZBRINCK PUBLISHERS, LLC  
16      D/B/A MACMILLAN, a New York  
17      limited liability company, and  
18      UNIVERSAL CITY STUDIOS, LLC, a  
19      Delaware limited liability  
20      company,

21                   Defendants.

22                   \_\_\_\_\_/

23                   DEPOSITION OF  
24                   Lynne Freeman  
25                   CONFIDENTIAL - ATTORNEYS' EYES ONLY

26                   Friday, March 24, 2023  
27                   9:04 a.m. - 6:19 p.m.  
28                   Pacific Time

29                   Remote Location  
30                   Via Zoom Videoconference  
31                   All Parties Remote

32

33

34                   STENOGRAPHICALLY REPORTED BY:  
35                   ERICA FIELD, RPR  
36                   JOB NO. 886198

2

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17  
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Isaac Orihuela20  
21  
22  
23  
24  
25

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1 Thereupon,

2 the proceedings began at 9:04 a.m.:

3 THE VIDEOGRAPHER: We are now on  
4 the record.

5 Today's date is March 24, 2023,  
6 and the time is 9:04 a.m. Pacific  
7 Time.

8 This is the video deposition of  
9 Lynne Freeman in the matter of Lynne  
10 Freeman v. Tracy Deebs-Elkenaney  
11 P/K/A Tracy Wolff, et al., filed in  
12 the United States District Court,  
13 Southern District of New York, Case  
14 No. 1:22-cv-02435-LLS-SN.

15 This deposition is taking place  
16 via web videoconference with all  
17 participants attending remotely.

18 Counsel on the conference,  
19 please identify yourselves and state  
20 whom you represent, beginning with the  
21 questioning attorney.

22 MS. WOLFF: It's Nancy Wolff of  
23 Cowan, DeBaets, Abrahams & Sheppard,  
24 and I represent defendants Entangled,  
25 Macmillan, Universal, and Tracy Deebs

1 Wolff.

2 MS. COLE: My name is CeCe Cole  
3 also from the law firm of Cowan,  
4 DeBaets, Abrahams & Sheppard on behalf  
5 of defendants Entangled Publishing,  
6 Universal, Macmillan, and  
7 Tracy Deebs-Elkenaney.

8 MR. HALPERIN: I'm Benjamin  
9 Halperin, also representing those same  
10 defendants and from the same law firm.  
11 I'm not going to be asking any  
12 questions, but I'm announcing my  
13 appearance.

14 MR. KOONCE: Lance Koonce with  
15 Klaris Law representing Prospect  
16 Agency, LLC and Emily Sylvan Kim, and  
17 with me I have Zachary Press from  
18 Klaris Law as well.

19 MR. DONIGER: Stephen Doniger of  
20 Doniger Burroughs representing the  
21 plaintiff.

22 MR. PASSIN: And Mark Passin,  
23 also on behalf of plaintiff, but I  
24 will not be asking -- or be speaking  
25 today.

1 THE VIDEOGRAPHER: Anyone else?

2 | Thank you. My name is Adriel

3 Olvera. I'm the videographer

4 representing Lexitas.

5 Our court reporter today is

6 | Erica Field, representing Lexitas as

7 well. The court reporter will now

8 swear in the witness.

9      Whereupon,

9 | Whereupon,

LYNNE FREEMAN,

11 having been first duly sworn or affirmed, was  
12 examined and testified as follows:

13 THE WITNESS: I do.

14 DIRECT EXAMINATION

15 BY MS. WOLFF:

16 Q. Good morning, Ms. Freeman.

17 A. Good morning.

18 Q. I'm going to be -- could you just  
19 please state your name for the record?

20 A. It's Lynne Freeman.

21 Q. And spell Freeman.

22 A. F-R-E-E-M-A-N.

23 Q. Have you ever been deposed before,  
24 Ms. Freeman?

25 A. No.

36

1 beauty of the nature of it. And the aurora  
2 borealis, we know that's magical too.

3 Q. I would agree.

4 So you took your notes and then  
5 you -- did you write a first draft of the  
6 book or an outline or what was the process?

7 A. Well -- okay. So I took my notes,  
8 and I wrote about a hundred 50 pages. And I  
9 sent it to two friends that I think are very,  
10 very smart. And I just asked them, look, I'm  
11 crazy maybe, that I think that I can write,  
12 or is this interesting to you what I'm put  
13 together. And I need you to be brutally  
14 honest with me because I'm super busy.

15 I have a young kid at home, and  
16 I'm full-time practicing law, and I'm doing  
17 this at night, and I really feel excited  
18 about what I'm doing, so I need you to tell  
19 me what I think. And that's what I did.

20 Q. Who are your two friends?

21 A. Jennifer Holland, who is an  
22 attorney, and who is very intimidating  
23 because she's very smart. And then Michael  
24 Garner is a guy that I've known since high  
25 school, and we were in an honors -- super

1 smart honors class together, and he's a very  
2 bright guy who also writes.

3 Q. What honors class is that?

4 A. Enriched Intensive Studies  
5 Institute, EISI. You had to -- that's the  
6 class.

7 Q. Enriched -- Enriched --

8 A. Enriched Intensive Studies  
9 Institute at West Anchorage High School back  
10 in the day.

11 Q. Was that an English class or math  
12 class?

13 A. No. I don't know how to describe  
14 what it is. But you had to be really  
15 proficient or extraordinary in some area to  
16 get in the class, whether it was mathematics  
17 or science. It could be art. They pick -- I  
18 don't know. It might have been 10 or 15  
19 students to be in it, and it was one of the  
20 classes I was in with Mike. That's how I met  
21 him.

22 Q. What was your proficiency?

23 A. I have no idea why they let me in  
24 there. I don't know. I went and  
25 interviewed. I'm somebody who took a lot of

1 what did you do?

2 A. Well, I didn't -- I didn't know if  
3 I was really finished or not. But I went to  
4 my smart friends, two of them that I consider  
5 scary because they're much smarter than I am.  
6 And they're attorneys. And I gave a draft to  
7 them to read and said could you just please  
8 read it and give me a critique, which they  
9 were both willing to do it.

10 Q. And so they critiqued it?

11 A. Well, yeah.

12 Q. And what was the critique?

13 A. Well, what ended up happening is  
14 that I didn't get a critique back. One of my  
15 friends sent it to a contact of hers at  
16 HarperCollins and that -- that's what  
17 happened.

18 Q. Without asking you?

19 A. She told me after the fact because  
20 she didn't want me to be upset, but yes.

21 Q. Okay. And do you know when that  
22 took place?

23 A. Yeah. So that would have been --  
24 I think it's like September of -- and I can't  
25 be exact with this, but I feel like it's

40

1 about September of 2010.

2 Q. And how did you find out about it?

3 A. Well, she told me. She told me  
4 what she had done. She's, like, look, I  
5 don't want to you to be mad but I'm sending  
6 this to Lucy, and I really hope that's going  
7 to be okay with me. I'm, like, yes, it's  
8 okay with me. I'm just -- yes. So it was  
9 fine.

10 Q. And who is Lucy?

11 A. Lucy Vanderbilt. She has a  
12 different title right now, but it's basically  
13 she's the publishing rights director of  
14 HarperCollins UK, and I think nowadays they  
15 changed the title to something like  
16 international rights director.

17 Q. Why did she think you might be mad  
18 at her --

19 A. I thought she was doing me a  
20 tremendous favor. She loved the book, and my  
21 friend couldn't put it down and really  
22 thought I had something exciting, and Lucy is  
23 a very smart, no-nonsense person, who my  
24 friend didn't even think would maybe have  
25 time to read it but wanted her to see it.

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1 again? I don't want to ramble.

2 Q. No. I just was wondering what was  
3 the next step after it went to the publisher.

4 What happened --

5 A. So then it went to the fantasy and  
6 children's editors. Yes.

7 Q. Do you know what editor that was?

8 A. I can't tell you who is who, but  
9 one was Rachel Denning. And the other was  
10 Emma, I think it's Kantor.

11 Q. And did these editors accept your  
12 book for publication?

13 A. When you say, publication, does  
14 that mean did they -- did they read it --

15 Q. No. Did they offer you a  
16 publishing contact? Did they want to publish  
17 the book?

18 A. No. There were other steps that  
19 happened before all that comes in --

20 Q. What would those -- can you tell  
21 me what happened next then after --

22 A. Sure.

23 Q. -- you went to the fantasy editor?

24 A. Sure. So I was given an e-mail to  
25 see from both of those people that they liked

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1 it. They loved it. It went to readers. The  
2 readers loved it, and then it went to sales.  
3 And during this time -- somewhere in this  
4 time, I started looking for agents.

5 And your question was what all  
6 happened, so then that calls for me to tell  
7 you, one or both of these editors -- I can't  
8 recall now. It's been a long time. They  
9 gave me the name of four UK agents to contact  
10 and use their names with them. And then I  
11 was also, at that point, querying in the US  
12 for an agent.

13 Q. So were they saying that you  
14 should get an agent for what reason?

15 A. I think the idea was --

16 THE WITNESS: Go ahead. I'm  
17 sorry.

18 MR. DONIGER: Sounds like it's  
19 calling for speculation as to what  
20 their intention was.

21 But you can answer to the extent  
22 that you know.

23 A. Yeah, I am not -- nobody is making  
24 me a promise that anything is getting  
25 published. I don't know. But the idea was

45

1 that it was, you know, time. Michelle  
2 suggesting that I should get an agent, and I  
3 saw some communications about whether I was  
4 agented.

5 Also they passed along the name of  
6 four UK agents for me somewhere in this. And  
7 that's when I went about the process of  
8 looking for an agent --

9 BY MS. WOLFF:

10 Q. So they didn't --

11 A. -- while this is pending.

12 Q. So they didn't agree that they  
13 were going to publish the manuscript as it  
14 was delivered to them?

15 A. No. What they said is they were  
16 taking it to sales.

17 Q. And do you know what happened when  
18 they took it to sales?

19 A. I know that ultimately what I was  
20 told is that sales had purchased the quota of  
21 books in this genre for the year, that the  
22 market was very hot with Twilight right now  
23 and that the feeling was that I needed to get  
24 it out as soon as I could to agents and to  
25 publishers, that they felt it should get

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1 for a literary agent?

2 A. I feel like it was -- I don't  
3 know -- late September, early -- I don't  
4 know. Sometime in that fall range. Late  
5 September, early October.

6 Q. Of 2010?

7 A. Yes. Correct.

8 Q. And you did so at the suggestion  
9 of individuals at HarperCollins who had said  
10 you should have an agent?

11 A. They didn't speak to me directly,  
12 so it would have been through Michelle  
13 Bittner.

14 Q. Okay. But it was as a result of  
15 her conversations with HarperCollins that it  
16 was suggested to you that you look for an  
17 agent?

18 A. Yes, correct.

19 Q. Did you submit inquiries to any  
20 other agents before Ms. Kim?

21 A. I believe I did. I believe I --  
22 yes.

23 Q. Do you recall how many?

24 A. I don't recall.

25 Q. Was it more than five?

230

1 very excited.

2 Q. Understood.

3 A. Yeah.

4 Q. Let me ask a question similar to  
5 what I asked before. Is it your contention  
6 in this lawsuit that at the time that Ms. Kim  
7 asked you to be a client of Prospect Agency  
8 that she was already planning to show your  
9 manuscript to Tracy Wolff for the purposes of  
10 committing copyright infringement?

11 A. I don't know what her intentions  
12 were.

13 Q. Do you -- is there -- is there a  
14 point in time at which you do contend Emily  
15 Kim was actively planning to show your  
16 manuscript to Tracy Wolff for the purposes of  
17 committing copyright infringement?

18 A. Well, that would be why we are in  
19 this lawsuit presently right now.

20 Q. Well, you have seen documents.  
21 You have heard testimony. What is your  
22 belief as you sit here today as to when Emily  
23 Kim allegedly starting developing a plan to  
24 show your manuscript to Tracy Wolff?

25 A. I don't know when she started

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1 developing a plan to show my manuscript to  
2 Tracy.

3 Q. Let me show you -- I'm going to  
4 mark as Exhibit 143 a letter dated  
5 February 22, 2023, from your counsel  
6 CSReeder, PC to Judge Sarah Netburn.

7 Let me know when you have had a  
8 chance to see -- to take a quick look at  
9 that.

10 (Exhibit 143 was marked for  
11 identification.)

12 A. What exhibit number is that?

13 BY MR. KOONCE:

14 Q. 143.

15 A. Okay.

16 Q. On the second page of that  
17 document, there's a paragraph, Paragraph A,  
18 and I will note that there's a redacted  
19 sentence in this document. I elected to --  
20 I'm electing to show you the redacted version  
21 just because I wasn't sure who would be on  
22 the call, and I don't think it's relevant to  
23 the question I'm going to ask.

24 The letter says: In December of  
25 2010, Kim asked plaintiff what is the coolest

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1           A.     Before we entered -- I'm trying to  
2 understand. Before we entered into an  
3 agreement to be represented together, you're  
4 asking if Emily said to me who she was going  
5 to show my manuscript to?

6           Q.     Or who she was not going to show  
7 your manuscript to?

8           A.     I don't understand the question.  
9 I'm so sorry.

10          Q.     That's fine.

11                 Did she ever represent to you that  
12 the only people she would show your  
13 manuscript to were editors at publishing  
14 houses and readers?

15          A.     Yes.

16          Q.     When did she make that  
17 representation to you?

18          A.     I don't recall the when of it. I  
19 just recall the specificity of it.

20          Q.     And what was the context for that  
21 conversation with her?

22          A.     My mom told me that I should be  
23 getting my book registered with the copyright  
24 office. You know, my mom was concerned  
25 about, you know, somebody stealing the idea

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1 or copying the book, doing something with it  
2 and that I should register it.

3                   She had seen something on a legal  
4 program. So I brought the issue up to Emily  
5 about, should I register my book. That's the  
6 context of how that conversation came to be.

7           Q.     Okay. During the time that you  
8 worked with Prospect Agency, did you ever  
9 learn that Emily Kim showed your manuscript  
10 to anyone other than editors and readers?

11           A.     No.

12           Q.     Before entering into the agency  
13 agreement, did Ms. Kim make any other  
14 expressed representations or promises to you?

15           A.     Can you define expressed  
16 representations and promises, please.

17           Q.     As opposed to -- well, let me ask  
18 it differently.

19                   Before entering into your  
20 agreement with Prospect Agency, did Ms. Kim  
21 make any representations or promises to you  
22 separate and apart from the writing of the  
23 agreement itself?

24           A.     Again, do you mind explaining  
25 representations and promises? I don't

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1 understand what you're asking me.

2 Q. Okay. Do you know what a promise  
3 is?

4 A. Yes.

5 Q. Did Ms. Kim make any promises to  
6 you before entering -- you entered into the  
7 agreement other than what was in writing in  
8 the agreement itself?

9 A. No.

10 MR. KOONCE: Let's -- let me  
11 move -- this may have been marked at a  
12 prior deposition, but I'm going to  
13 remark it because I wasn't sure.

14 This is the -- we are going to  
15 mark this as Exhibit 144. I apologize  
16 to the other counsel if it's  
17 duplicative.

18 This is the agency agreement  
19 version from Prospect Agency files  
20 between Prospect Agency and  
21 Ms. Freeman.

22 (Exhibit 144 was marked for  
23 identification.)

24 BY MR. KOONCE:

25 Q. Ms. Freeman, let me know when you

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1 the time to read every version of everything  
2 I wrote. So I literally just made a best  
3 guess.

4 Q. So is the first time you  
5 registered anything with the copyright office  
6 relating to your manuscript, after you had  
7 picked up the -- picked up Crush in the  
8 bookstore?

9 A. Yes.

10 Q. Did you keep working on your  
11 manuscript after you eventually parted ways  
12 with Prospect Agency?

13 A. Yes.

14 Q. And I take it you did not send any  
15 versions of your manuscript that you worked  
16 on after you parted ways with Prospect Agency  
17 to Ms. Kim?

18 A. I don't recall.

19 Q. Would there have been a reason for  
20 you to send her versions of your manuscript  
21 after you parted ways with Prospect Agency?

22 A. Yes.

23 Q. Why -- why would you have done  
24 that?

25 A. Emily reached out to me in 2015

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1 many publishers Prospect Agency sent your  
2 manuscript to during the time you worked with  
3 it?

4 A. I believe that the 2011 version --  
5 I consider that my flagship version -- went  
6 to five editors, and the other versions over  
7 time went to a bunch of other editors. I  
8 can't recall the totals.

9 Q. Okay. Does it surprise you to  
10 learn it was over 20?

11 A. No.

12 Q. Is it your contention in this case  
13 that Ms. Kim did not really submit your  
14 manuscript to those publishers?

15 A. No.

16 Q. Is it your contention that she was  
17 somehow working against your interests when  
18 she sent those submissions to publishers on  
19 your behalf?

20 A. I have no idea. I don't think so.

21 Q. Okay. But if any one of those  
22 publishers had said yes, they wanted to  
23 publish your manuscript, wouldn't that have  
24 ruined any plan for her to hand that  
25 manuscript to Tracy Wolff to use?